REMARKS

Claims 1-4, 10, 12-14, and 20-25 stand rejected under obviousness-type double patenting in view of U.S. Pat. No. 6,301,531 (hereinafter Pierro). Examiner Fisher clarified the nature of this rejection to the undersigned during telephonic interview held on March 28, 2006 where he explained that the double patenting rejection asserted in the PTO communication should be treated as an obviousness type double patenting rejection, and not as a double patenting rejection under section 101. Claims 1-4, 10, 20-25, 37, and 40-45 stand rejected as being anticipated under 35 U.S.C. 102(g) in view of Pierro. Claims 5-9, 11, 15-19, 26-31, 38, 39, 46, and 47 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Pierro. Reconsideration of the rejections is solicited in view of the following remarks. Moreover this response should be entered since, as elaborated in greater detail below, it places all pending claims in condition ready for allowance.

DOUBLE PATENTING REJECTION

In view of the terminal disclaimer submitted with the present response, applicant respectfully submits that the obviousness-type double patent rejection has been mooted. Accordingly, withdrawal of the rejection of claims 1-4, 10, 12-14, and 20-25 is requested.

REJECTIONS UNDER 35 U.S.C. 102(g)

Applicant notes that the petition filed by applicant with the Office of Petitions of the USPTO to claim benefit under 35 U.S.C. 120, 121, or 365(c) of one or more prior copending nonprovisional applications has been granted. More particularly, the present application presently claims priority from US application No. 09/378,939 (Pierro) filed on August 23, 1999.

Consequently, the priority date of the present application effectively goes back to August 23, 1999. Moreover, in previous Office communications the Examiner has determined that Pierro provides support for the presently claimed invention, (otherwise the Examiner would not have used Pierro to reject claims). Accordingly, in view of the priority date of the present application (August 23, 1999) coupled with the fact that the Examiner has previously found that Pierro provide basis for the presently claimed invention, it is respectfully submitted that Pierro cannot be used as prior art to defeat the present invention. Accordingly, applicant requests that the rejection of claims 1-4, 10, 20-25, 37, and 40-45 in view of Pierro under 35 U.S.C. 102(g) should be withdrawn.

REJECTIONS UNDER 35 U.S.C. 103(a)

It is respectfully noted that the subject matter of Pierro and the presently claimed invention, were, at the time the invention was made, owned by the same entity (General Electric Company) and/or subject to an obligation of assignment to the same entity. Consequently, Pierro cannot be used as prior art under 35 U.S.C. 103(c) to preclude patentability under section 103 of the statute. See M.P.E.P section 706.02(l)(1) in connection with rejections under 35 U.S.C. 103(a) using prior art under 35 U.S.C. 102(e), (f), or (g); prior art disqualification under 35 U.S.C. 103(c). In this case, the present application and the "prior art" (Pierro) were commonly owned by General Electric Company, or subject to an obligation of an assignment to General Electric Company, at the time the invention in the application for patent was made. Accordingly, applicant requests that the rejection of claims 5-9, 11, 15-19, 26-31, 38, 39, 46, and 47 in view of Pierro under 35 U.S.C. 103(a) should be withdrawn since Pierro is disqualified as prior art under the exception provided by 35 U.S.C. 103(c).

It is respectfully submitted that each of the claims pending in this application recites patentable subject matter and it is further submitted that such claims comply with all statutory requirements and thus each of such claims should be allowed.

The applicant appreciates the Examiner's efforts and cordially invites the Examiner to call the undersigned attorney if there are any outstanding items that may be resolved via telephone conference.

Dated this 5th day of April, 2006

Respectfully submitted,

Enrique J. Mora, Esquire
Registration No. 36,875
Beusse, Brownlee, Wolter, Mora & Maire, P.A.
390 North Orange Avenue, Suite 2500
Orlando, Florida 32801
Telephone: (407) 926-7705
Facsimile: (407) 926-7720